

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
OCTOBER 17, 2007**

**CALL TO ORDER** A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Randy Toavs, Gordon Cross, Kathy Robertson, Kim Fleming, Barry Conger, and Frank DeKort. Don Hines, Gene Dziza and Mike Mower were absent. Anne Thompson, Kirsten Holland and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 45 people in the audience.

**PUBLIC REVIEW** Gordon Cross reviewed the public hearing process.

**APPROVAL OF MINUTES** Toavs made a motion seconded by DeKort to approve the September 5, 2007 minutes and the September 12, 2007 minutes.

The motion was carried by quorum.

**PUBLIC COMMENT**  
*(not related to agenda items)*

None.

**ZONING DISTRICT/  
OLD HWY 93  
FZD-07-03** A Zoning request to establish the Old Highway 93 Shoreline Zoning District, by Flathead County. The area is currently under interim R-2 (One-Family Limited Residential) and the proposal would establish permanent R-2 zoning along the Eastern boundary of Highway 93, continuing West and South to the Montana State Fish Hatchery and include all property between Highway 93 and the shoreline of Flathead Lake.

**STAFF REPORT** Kirsten Holland reviewed Staff Report FZD-07-03 for the Board.

**BOARD QUESTIONS** Fleming said the only changes were people supporting the zoning.

Holland said 32 letters were received; 31 were in support of the zoning.

Harris said the designated land use map in the Growth Policy is consistent with the zoning.

**APPLICANT**

None.

**AGENCIES**

None present.

**PUBLIC  
COMMENT**

Bob Fraser, 375 North Juniper Bay Road, was one of the original applicants of the zone change two years ago. The Planning Board put a moratorium on zoning until the Growth Policy was adopted so the application was changed from permanent to interim. The Planning Board and Commissioners unanimously approved the application last year.

Alison McCarthy, 551 North Juniper Bay Road, is one of the original applicants. She expressed her thanks to the Planning Board and Staff for all their hard work and support. She thanked Kirsten Holland for caring so much about planning. She requested the application be approved for the neighborhood and said they need permanent zoning to help protect the residential character of the neighborhood.

Dennis McCarthy, 551 North Juniper Bay Road, thanked the Board and Staff for their work and requested the support of the application.

Kim Orr, 5655 Hwy 93 South, was one of the original applicants. She discussed one of the twelve criteria for a zone change and said Juniper Bay Road is consistent with the requested zoning. She said apartment projects give more problems to the neighborhood and make the area more urban.

Virginia Gazewood, 105 Looking East Drive, supported everything said by previous speakers and requested the permanent zoning.

Ray Roge, 420 North Juniper Bay Road, lives next to some new rentals developed and said the new residents are parking in the road and causing problems. He supports zoning and hoped someday something will be done about rentals and apartments.

Jan Kirly, 5557 Hwy 93, supported everything previously said and the permanent zoning.

Fran Ruby, 85 Spring Creek Road, thanked the Board for their work. She said water quality is a huge issue and zoning helps keep water clean because density affects water quality. She asked the Board to support the permanent zoning.

Denis Hatton, 249 Breezy Point, supported his friends and neighbors.

Bruce Jellison, 559 North Juniper Bay Road, supported the zoning.

Roger Siblingrud, 383 North Juniper Bay Road, said there have been some bad developments in the past couple years and requested the Board approve the permanent zoning.

Peggy Hedin, 206 Westridge Drive, supports the project. The zoning would grant the greatest common good of all residents and would retain the character of the neighborhood. R2 zoning grants safety. All lakeshore areas are fragile so zoning helps the problems. Urged Board to grant zoning.

Howard Ruby agreed with everyone and said his main concern is density and keeping Flathead Lake pristine.

Pete Hogland, 693 North Juniper Bay Road, encouraged the Board to grant R-2 zoning.

Joel Orr, 5655 Hwy 93 South, is one of the original applicants. He thanked the Planning Board and Staff for all their help with the project. He said the need still exists for permanent zoning. The proposed zoning district complies with the Growth Policy. R-2 zoning makes sense for the area and addresses all 12 criteria for zoning applications. He said 80% of the landowners have signed the petition for R-2 zoning.

John Anderson was in favor of everything stated by previous speakers.

**APPLICANT  
REBUTTAL**

None.

**STAFF  
REBUTTAL  
BOARD  
DISCUSSION**

None.

None.

**MOTION TO  
ADOPT F.O.F.**

Fleming made a motion seconded by Robertson to adopt Staff Report FZD-07-03 as findings-of-fact.

**ROLL CALL TO  
ADOPT F.O.F.**

On a roll call vote the motion passed unanimously.

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| <b>MOTION TO APPROVE</b>                   | Robertson made a motion seconded by DeKort to recommend approval of FZD-07-03 to the County Commissioners.  |
| <b>BOARD DISCUSSION</b>                    | None.   |
| <b>MAIN ROLL CALL TO APPROVE</b>           | On a roll call vote the motion passed unanimously.  |
| <b>BOARD DISCUSSION</b>                    | None.   |
| <b>PRELIMINARY PLAT/MC GREGOR OVERLOOK</b> | A request by David Greer on behalf of Plum Creek Land Company for Preliminary Plat approval of McGregor Overlook Subdivision, a 35 lot single-family residential subdivision on 361.79 acres. Lots in the subdivision are proposed to have individual water and septic systems. The property is located off US Highway 2.   |
| <b>STAFF REPORT</b>                        | Anne Thompson reviewed Staff Report FPP 07-26 for the Board.  |
| <b>BOARD QUESTIONS</b>                     | <p>Fleming asked what Staff wanted for right-of-way.</p> <p>Thompson said 250 feet of right-of-way and in the future the road may need to be widened.</p> <p>Fleming asked about the project getting annexed into the Marion Fire District.</p> <p>Thompson said the applicant and fire district are working out the details.</p> <p>DeKort asked about the drainage and intermittent streams.</p> <p>Thompson showed on the map where the streams and drainages were.</p> <p>DeKort asked when payment to the school would be.</p> <p>Thompson said before final plat.</p> <p>Harris said the 50-ft “no-build zone” could include the bike easement.</p> |
| <b>APPLICANT</b>                           | <u>Peter Schellinger</u> , of Township 110 Company, thought the project was good planning. He spent a lot of time working with various agencies including Marion Fire and Fish, Wildlife, and Parks. He attended neighborhood meeting. He agreed with all of  |

the conditions with the exception of 17 and 18a.

David Greer, Senior Planner for Plum Creek, said the north and south side of McGregor Lake is forest service land with some private ownership. He made sure there were easements to everyone with surrounding land and there are no future plans to develop the land further. In the future, there will be an overall development plan to show the whole picture. He thinks the density is good for the area. The applicant is proposing to put a 30,000 gallon tank that is able to pump 5,000 gallons per minute. They have also agreed to give \$29,000 to the Marion Fire District. He asked for flexibility with annexing into the fire district because the Board is changing and prices are changing. He said there will be defensible open space around each property and all the building sites will be on gentle slopes. Township 110 will be known and associated with Plum Creek and will be known for gazebos, landscaped, parks, trails, etc. He said the subdivision will address the impacts the subdivision makes to McGregor Lake.

Dave DeGrandpre, said water quality is the big issue, but there are only a few ways a project could impact water quality. One of the ways would be sewage. Each drain field location is 600 feet from the Lake and the drain fields are pressure closed. There were extensive soil investigations onsite and the topography is suitable for drain fields. He noticed some water in areas during the spring so they set aside those areas for common areas and parkland. He said the roads will be lined with ditches and paved with culverts. There was a well drilled on lot 32 and it produced 40 gallons a minute for 24 hours straight. A “no-build zone” was the suggestion of Staff. He discussed density and said the proposed density is appropriate for the area. The applicant is not intending to zone or create a density for the area. He said no subdivision on lots 1-33 is appropriate, but in a way by not being able to re-subdivide the other lots, they are being penalized for not submitting the original density proposed.

## **BOARD QUESTIONS**

DeKort asked if the wetland was changed into a pond.

Eby said the blue area on the map was labeled as a pond.

Cross asked if the roadways were in compliance.

Greer said yes, except the access to the DNRC land.

**AGENCIES**

James Brower, Marion Fire Department, said the district would require what is in the subdivision regulations. He would ask for the water cistern to be kept at the edge and end of the property. He feels that the per lot fee can be agreed on. He said Fire Departments don't like cul-de-sacs. He said 10 acres per lot is a good density for the area.

**PUBLIC  
COMMENT**

Bill Lynch, lives next to the Fish, Wildlife, and Parks land and asked if there was a proposal for an access to the Fish, Wildlife, and Parks land.

**STAFF  
REBUTTAL**

Thompson said she forgot two conditions regarding road improvements and storm water. She said the density of 3.14 acres a lot would not be recommended if there weren't larger lots attached to it.

**APPLICANT  
REBUTTAL**

Greer said they are planning to have a landscape architect to look at options for an access. They might decide the road can't handle vehicles and make it a pedestrian path only. He is a strong believer in zoning and has been talking to BJ Grieve about overall development plans. When the property adjacent to the road it is best to go from high to low density. He thought 5 acres per lot was a good density for the area. In 50 years McGregor Lake will be a community and locking out 5 acre density is pre mature because in 20 years there will be 1 acre density.

**MOTION TO  
ADOPT F.O.F.**

Toavs made a motion seconded by Fleming to adopt Staff Report FPP 07-26 as findings-of-fact.

**MOTION TO ADD  
F.O.F. 19**

Cross made a motion seconded by DeKort to add finding of fact 19 to state: *At the public hearing, the Marion Fire Chief recommended against further subdivision of Lots 34 and 35 due to fire hazards and supported the 10-acre density proposed by the staff report.*

The motion was carried by quorum.

**MOTION TO  
CHANGE F.O.F. 6**

Toavs made a motion seconded by Fleming to amend finding of fact 6 to state: *This subdivision is being proposed at a density of 10.3 acres per unit. This includes all proposed lots. However, only Lots 1 – 33 are proposed with no further subdivision allowed. When Lots 34 and 35 (the two large lots) are not included in the density calculation, the proposed density is 7.77 acres per lot. Subdivision densities less than 10 acres per lot are not desirable in this area due to its rural nature and the lack of services and facilities provided. Creating subdivisions with higher densities in this location has impacts on public health and safety due to concerns regarding the wildland-urban interface, an area with a significantly higher chance of wildlife-human interactions and wildfire hazard. Due to concerns for public health and safety, wildlife and wildlife habitat, local services, and the recommendations of the Flathead County Growth Policy, condition 18 places a statement on the face of the final plat notifying landowners that there is no further subdivision of lots.*

The motion was carried by quorum.

**MAIN ROLL CALL  
TO ADOPT F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO  
APPROVE**

Fleming made a motion seconded by Conger to recommend approval of FPP 07-26 to the County Commissioners.

**MOTION TO ADD  
COND. 26**

Robertson made a motion seconded by Conger to add condition 26 to state: *The private, internal subdivision road shall consist of a 60-foot right-of-way, 24-foot paved driving surface, and a cul-de-sac driving surface radius of 50-feet with an outside right-of-way radius of 55-feet and be designed by a licensed, professional engineer and upon completion of construction shall be certified by a licensed professional engineer for compliance with AASHTO and Section 3.9 of the Flathead County Subdivision Regulations. [Section 3.9, FCSR]*

The motion was carried by quorum.

**MOTION TO  
DELETE COND 7**

Toavs made a motion seconded by Conger to delete condition 7 to state: ~~*The applicant shall donate 10 feet to the right of way along US Hwy 2 W for a bike path easement. [Section 3.11, FCSR]*~~

The motion was carried by quorum.

**MOTION TO  
AMEND COND 22**

Robertson made a motion seconded by Fleming to amend condition 22 to state: *With final plat application, the applicant shall submit a park plan for approval. The plan shall outline all proposed improvements to be made to the park areas. All improvements shall be constructed as proposed prior to final plat application. [76-3-608, MCA]*

The motion was carried by quorum.

**MOTION TO  
AMEND COND 14**

Fleming made a motion seconded by Robertson to amend condition 14 to state: *The applicant shall provide a letter of agreement from Montana Department of Transportation with regard to the right-of-way abutting US Hwy 2 prior to final plat. [Agency Comment]*

The motion was carried by quorum.

**MOTION TO ADD  
COND 14e**

Robertson made a motion seconded by Fleming to add condition 14e to state: *All lots shall access the internal subdivision road.*

The motion was carried by quorum.

**MOTION TO ADD  
COND 28**

Robertson made a motion seconded by Fleming to add condition 28 to state: *The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions, and except that the following statement shall not be on the final plat: "No further subdivision of Lots 1-33."*

The motion was carried by quorum.

**MOTION TO ADD  
COND 29**

Conger made a motion seconded by Fleming to add condition 29 to state: *The following statement shall appear on the face of the final plat: A 50 foot setback exists along US Hwy 2 W. This is a no build zone.*

The motion was carried by quorum.

**MOTION TO ADD  
COND 30**

Toavs made a motion seconded by DeKort to add condition 30 to state: *The following statement shall appear on the face of the final plat: The access to State of Montana School Trust Lands through Lot 34 shall not be gated and shall remain open to the public for access.*

The motion was carried by quorum.



**MOTION TO  
AMEND COND 20**

DeKort made a motion seconded by Robertson to amend condition 20 to state: *A 50-foot building setback and vegetative buffers along the intermittent streams and wetlands (as shown on the USGS quadrangle map) shall be shown on the face of the final plat. [76-3-608, MCA]*

The motion was carried by quorum.

**MOTION TO  
AMEND COND 1**

Conger made a motion seconded by Robertson to amend condition 1 to state: *The applicant shall comply with reasonable fire suppression and access requirements of the ~~Marion~~ applicable fire authority. A letter from the fire authority stating that an agreement has been made shall be submitted with the application for Final Plat. Fire suppression shall be built prior to final plat approval. [Section 3.20, FCSR]*

The motion was carried by quorum.

**MAIN MOTION  
ROLL CALL TO  
APPROVE**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS**

The Board discussed the upcoming meeting on Setbacks.

**NEW BUSINESS**

Toavs asked Staff to notify the Board when an application is postponed or cancelled.

**ADJOURNMENT**

The meeting was adjourned at approximately 9:15 p.m. on a motion Robertson by seconded by DeKort. The next meeting will be held at 6:00 p.m. on October 24, 2007.

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Gene Dziza, Chairperson

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Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 11/14/07